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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,734	03/29/2004	Keith F. Woodruff	500-020-1-1-1-1-1	1688

7590

06/14/2005

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EXAMINER

JACYNA, J CASIMER

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/811,734

Applicant(s)

WOODRUFF, KEITH F.

Examiner

J. Casimer Jacyna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 15 and 41-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 15 and 41-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 03292004.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1 and 15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 11 of U.S. Patent No. 5,947,171. Although the conflicting claims are not identical, they are not patentably distinct from each other because the application claims are broader than the patent claims wherein it would have been obvious to one of ordinary skill that limitations could have been omitted from the patent claims in order to obtain a broader claim coverage for the invention. Application claim 1 is included on lines 1-11 of patent claim 11. Application claim 15 is included on lines 1-25 of patent claim 1.

3. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,085,809. Although the conflicting claims are not identical, they are not patentably distinct from each other because the application claims are broader than the patent claims wherein it would have been obvious to one of ordinary skill that limitations could have been

omitted from the patent claims in order to obtain a broader claim coverage for the invention. Application claim 1 is included on lines 1-14 of patent claim 1.

4. Claims 1 and 15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 11 and 18 of U.S. Patent No. 6,305,444. Although the conflicting claims are not identical, they are not patentably distinct from each other because the application claims are broader than the patent claims wherein it would have been obvious to one of ordinary skill that limitations could have been omitted from the patent claims in order to obtain a broader claim coverage for the invention. Application claim 1 is included on lines 1-11 of patent claim 1. Application claim 15 is included within patent claim 11. Patent claim 11 additionally recites that the product receptacle collar is separate. Application claim 15 is included on lines 1-25 of patent claim 18.

5. Claims 1, 12, 15 and 48 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4, 6, 9 and 25 of U.S. Patent No. 6,543,496. Although the conflicting claims are not identical, they are not patentably distinct from each other because the application claims are broader than the patent claims wherein it would have been obvious to one of ordinary skill that limitations could have been omitted from the patent claims in order to obtain a broader claim coverage for the invention. Application claim 1 is included on lines 1-11 of patent claim 1. Application claim 15 is included on lines 1-27 of patent claim 6. The method steps of Application claim 48 are included on lines 9-15 of patent claim 9 with the apparatus in the preamble being defined in claim 7. Application claim 48 is included on

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lines 1-16 of patent claim 25. Application claim 12 is included on lines 1-7 of patent claim 4.

6. Claims 1 and 12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 14 of U.S. Patent No. 6,732,772. Although the conflicting claims are not identical, they are not patentably distinct from each other because the application claims are broader than the patent claims wherein it would have been obvious to one of ordinary skill that limitations could have been omitted from the patent claims in order to obtain a broader claim coverage for the invention. Application claim 1 is included on lines 1-12 of patent claims 1 and 14. Application claim 12 is included on lines 13-20 of patent claims 1 and 14.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. Claims 1-12, 15 and 41-50 are rejected under 35 U.S.C. 102(e) as being anticipated by Sandor. Sandor discloses a transfer system including a container 11, a first valve component 19, a second valve component 18, a means for rotating 50, a means for guiding 32, a means for mounting 20, stop means 53, a product receptacle 60, a collar 70 and means for removably coupling 84, 85, 88, 89.

10. Claims 1-12, 15 and 41-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Leather. Leather discloses a transfer system including a container 1, a first valve component 3 with a tab or flange guide element 31, a second valve component 4 with a rib or tab 42, a receptacle 2, with a collar having grooves 22, 23 which lead into a horizontal channel.


11. Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Rai et al. Rai discloses a transfer system including a container with a hollow housing 10, a discharge nozzle 24, a means for removably mounting a valve assembly 36, and a tab with an opening 21.

12. Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Reed et al. Reed discloses a transfer system including a container with a hollow housing 18, a discharge nozzle 4, a set of handles 6, and a means for removably mounting a valve assembly as are the threads on 4 as shown in the figures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Casimer Jacyna whose telephone number is 571-272-4889. The examiner can normally be reached on Wed. thru Fri. 9AM-7PM, Mon. 7AM-1PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 703-272-4835. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1000.



J. Casimer Jacyna
Primary Examiner
Art Unit 3751

JCJ